

Application No. 09/980,545

Remarks**I. Support For The Amendment And Status Of The Claims**

Claims 1 and 3 have been amended.

Claim 2 has been canceled, as Claim 1 has been amended to recite a human patient.

Claims 4-9 are directed to non-elected subject matter, and have been canceled without prejudice to or disclaimer of the subject matter therein. Applicants reserve the right to file one or more divisional patent applications claiming the subject matter of canceled Claims 4-9.

Claims 1 and 3 are active in this application.

Support for the amendment of Claim 1 is found in the specification at page 4, lines 12, 19-21 and 29; and page 6, lines 13 and 21-22.

No new matter has been added by this amendment.

II. The Written Description Rejection Should Be Withdrawn

Claims 1-3 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly lacking written description. Applicants respectfully traverse this rejection.

Claim 2 has been canceled, and Claim 1 has been amended to recite a method of suppressing metastatic tumor cell proliferation in a human patient comprising administering to said patient an antibody or fragment thereof that binds IL-17 in an amount effective to suppress proliferation of metastatic tumor cells.

The claimed method is described in the present specification. Applicants respectfully request that this rejection be reconsidered and withdrawn.

III. The Enablement Rejection Should Be Withdrawn

Claims 1-3 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly lacking enablement. Applicants respectfully traverse this rejection.

Claim 2 has been canceled, and Claim 1 has been amended to recite a method of suppressing metastatic tumor cell proliferation in a human patient comprising administering to said patient an antibody or fragment thereof that binds IL-17 in an amount effective to suppress proliferation of metastatic tumor cells.

The claimed method is enabled. Applicants respectfully request that this rejection be reconsidered and withdrawn.

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IV. The Indefiniteness Rejection Should Be Withdrawn

Claims 1-3 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite, because in the Examiner's view, "there is no patient population to whom the drug is administered." See the Office Action at page 7. Applicants respectfully traverse this rejection.

Claim 2 has been canceled, and Claim 1 has been amended to recite that the antibody or fragment thereof that binds IL-17 is administered to a human patient.

The claimed method is definite. Applicants respectfully request that this rejection be reconsidered and withdrawn.

V. The Lack Of Novelty Rejection Should Be Withdrawn

Claims 1-3 stand rejected under 35 U.S.C. § 102(b), as allegedly lacking novelty over Tartour *et al.*, *Proc. Am. Assoc. Cancer Res.*, 1998, March, pp. 653, Abstract #4447 ("Tartour"). Applicants respectfully traverse this rejection.

Claim 2 has been canceled. Claim 1 has been amended to recite a method of suppressing *metastatic* tumor cell proliferation. Tartour fails to teach the claimed method, because Tartour is silent regarding metastatic tumor cells.

Applicants respectfully request that this rejection be reconsidered and withdrawn.

VI. The Obviousness Rejection Should Be Withdrawn

Claims 2 and 3 stand rejected under 35 U.S.C. § 103, as allegedly obvious over Tartour in view of WO 97/04097. Applicants respectfully traverse this rejection. A *prima facie* case of obviousness has not been established.

Claim 2 has been canceled. Claim 3 recites that the antibody that binds IL-17 is a monoclonal antibody. Claim 1, from which Claim 3 depends, has been amended to recite a method of suppressing *metastatic* tumor cell proliferation.

Neither Tartour nor WO 97/04097 teach a method of suppressing metastatic tumor cell proliferation. Tartour relates to the administration of an IL-17 antibody to nude mice into which cervical tumor cells had been implanted to form a primary tumor. WO 97/04097 discusses inhibition of tumor growth (see page 4, line 28) and treatment of tumors and other conditions in which angiogenesis is involved (see page 16, lines 26-27), but WO 97/04097 is silent regarding treatment of metastatic tumors.

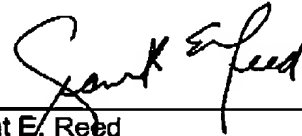
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One of ordinary skill in the art would not have been motivated to combine Tartour and WO 97/04097 in an attempt to obtain the claimed method. Even if Tartour and WO 97/04097 were combined, improperly, they would not have led one of ordinary skill in the art to the claimed method of suppressing metastatic tumor cell proliferation.

Applicants respectfully request that this rejection be reconsidered and withdrawn.

It is believed that each of the Examiner's objections and rejections have been addressed herein.

Respectfully submitted,



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